# EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

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| DANIEL LOVELACE AND HELEN LOVELACE, INDIVIDUALLY AND AS PARENTS OF BRETT LOVELACE, DECEASED, | ) | |
| Plaintiffs, | ) | |
| VS. | ) | 2:13-CV-02289dkv |
| PEDIATRIC ANESTHESIOLOGIST, P. A. BABU RAO PAIDIPALLI, AND MARK P. CLEMONS, | ) | |
| Defendants. | ) | |

DEPOSITION

OF

MARK CLEMONS, M.D.

February 6, 2014

COPY

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A. But they went to recovery room and I went to change my clothes, so I don't know.

Q. Okay. Now, when he reached the recovery room, did you give a doctor's order that he was to remain on supplemental oxygen to Nurse Kish or whoever would have been the nurse attending?

A. Generally speaking, anesthesia order in the recovery room will say they should be on oxygen to keep their saturation up above 90 to -- percent.

Q. Okay. Did you, at any time, specify that the PACU continue supplemental oxygen for him? Did you?

A. I don't believe so.

Q. Okay. Did you -- when you went to the recovery room or PACU, did you visit with Grace Freeman or see Grace Freeman there?

A. I don't remember.

Q. Okay. Now, I have asked this same question earlier, but I'm going to ask it again, so I'm just warning you. But were you aware that Fentanyl suppressed respiration and for a patient with any upper airway or breathing problems,

three to four-hour attenuated respiratory suppressant or depressant effect?

A. No.

Q. Now, had you, prior to today, ever read any medical articles that state that if a patient has upper airway surgery, has obstructions or apnea, that they should be directed to the ICU for recovery under a doctor's care instead of to the PACU or nursing assistance only?

A. There is all sorts of literature you can find. Kids and adults every day have tonsillectomy and adenoidectomy for upper airway obstruction and sleep apnea. In kids, generally speaking, that is the treatment for sleep apnea. The first thing that you would want to do is get them awake. It's extremely rare you would send someone straight to the ICU unless you had them on a ventilator.

Q. Okay. Well, I mean, if they are on supplemental oxygen --

A. Everyone is on supplemental oxygen the recovery room when they get there.

Q. Excuse me?

A. Almost everyone is on supplemental oxygen for a short while in the recovery room when they get there.

Q. But you never saw Brett on supplemental oxygen in the PACU, did you? You said you didn't.

A. In absolute terms, I couldn't tell you.

Q. And whose prerogative would it have been, yours or Dr. Paidipalli's or both of you jointly, to opt for ICU for Brett Lovelace instead of the PACU? Whose call was that?

A. Well, if a patient -- okay. In real terms, patient is having immediate problems in the operating room and you thought that you really needed the ICU. You might send them straight -- you might try and get them straight to the ICU. But in the real world here, postop tonsillectomy, adenoidectomy in a healthy child or adult even, you would go to the recovery room. And then if you were having problems, then you decide to either admit them or go to the ICU.

Q. Okay. The question I asked was not directly answered and it is, was it your

awake and kids move around, but I had no -- I don't believe I had any orders for any particular position.

Q. Now, would you agree that the lateral position, which is also a Sims' position I'll reference, you would have been able to observe whether or not Brett Lovelace's airway was functional -- his upper airway was functional, could you not have?

A. What you would better observe is whether he was drooling or bleeding in the lateral position, whether he was breathing or not. I don't know that that would have helped you.

Q. Okay. Now, had you left him with orders for supplemental oxygen, that would also have been prudent if no one had, would it not have?

MR. JOHNSON: Objection.

A. My experience is they roll out of the operating room on oxygen whether I order it or not.

BY MR. LEDBETTER:

Q. But you did not verify that?

A. No, I don't believe so.

Q. Now, when it comes to doing this type of surgery, what is called a T&A, do you agree that it requires, between you and the anesthesiologist, a high degree of cooperation because you are sharing airway?

A. We do share the airway.

Q. Okay. And you must jointly assure that oxygen is provided to the patient, agree?

A. Oxygen should be provided to the patient.

Q. And must jointly assure that carbon dioxide is eliminated?

A. If you're ventilating the patient, oxygen is going in and carbon dioxide is going out.

Q. Okay. But you understand -- you agree that it's your joint goal to make sure that carbon dioxide is eliminated? In other words, it isn't pooled so that they develop hypercapnia or --

A. Respire. Oxygen goes in and carbon dioxide goes out.

Q. And you must both assure that there is

anesthesiologist to assure a rapid return of consciousness as long as they are active and on task?

MR. JOHNSON: Objection.

MR. GILMER: Object to the form.

BY MR. LEDBETTER:

Q. Do you agree with that?

A. During the operation, everyone has a task. Okay. It's a team. Anesthesia puts them to sleep, surgeon does the surgery, anesthesia wakes them up and go to recovery room. Okay. We're not all doing the same thing at the same time.

So after doing that, we wake them up. The child is breathing. If the child is not breathing in the operating room, we put a breathing tube back down. Now, we go to recovery room. You go in the recovery room again to make sure that they are awake. I went into -- so then, again, the tasks are flowing down.

The recovery room nurse is now watching the patient and the flow of information at that point comes from the recovery room nurse

when we -- after we leave.

Q. Do you agree with me that when you last parted company with Brett Lovelace, that he was not, quote, fully awake when you last saw him?

A. Right. He was not fully awake.

Q. Okay. And that prior to that time in the OR when he was extubated, he was not fully awake either?

A. No, not awake in the sense that we use -- the layman would use the term "awake."

Q. Okay. You never discussed sedative options with Dr. Paidipalli?

A. I don't tell him how to do his job.

Q. Did you know that it was wise to let sleep apnea patients remain in the ICU as a precaution to an airway issue?

A. Sleep apnea patients rarely go to the ICU.

Q. Really? You mean you rarely send them there?

A. In the 30 years I have been doing this, I can't remember one sleep apnea patient that we sent to the ICU who woke up -- who woke

children with OSA, that -- who were given Fentanyl, 50 percent of the group developed complete apnea as a result of the use of Fentanyl?

MR. GILMER: Objection to the form and foundation.

BY MR. LEDBETTER:

Q. Did you know that?

A. No.

Q. In the prescription for 200 milligrams of Fentanyl, if that had been -- that dosage had been halved, what would it have been?

A. Half of 200 is 100.

Q. Okay. And you weren't aware of any medical literature that discussed having the Fentanyl dosage in patients who had a history of OSA?

A. No.

Q. Now, on March 12, 2012, Dr. Clemons, did you follow any specific extubation criteria or were you aware of one that Dr. Paidipalli was following?

A. No. I leave it to the anesthesiologist to decide when to extubate the

patient.

Q. And do you agree that on March 12, 2012 that asthma, sleep-deprived breathing, obesity, hypertrophic tonsils and apnea were among the medical history items that had been brought to your attention by Brett Lovelace's parents?

A. Correct.

Q. Now, do you agree that if he had been extubated in a fully awake condition, once his airway was restored and had been kept in a Fowler's position or upright on supplemental oxygen, that it's unlikely that what happened here would have occurred?

A. Conjecture. Don't know.

Q. You don't know. Let me ask you this: Are you aware of the use of each of these different means? In other words, extubated and fully awake, are you aware -- do you know what that means?

A. When they say extubated and awake, that means being able to follow commands. It is not fully awake like you and I talking to each other.

is.

Q. You had a right to choose not to allow the anesthesia medications, one or more of them that were given, did you not?

A. I don't tell anesthesia how to do their job because I don't know how to do their job.

Q. Had you ever done any research to determine the safety and efficacy of Propofol and Fentanyl as anesthetic agents?

A. No.

Q. And were you aware that at the time he was anesthestized, that he had some upper respiratory compromise going on at the time the surgery began?

A. When he was asleep, he had a good airway. He was breathing very well.

Q. Are you aware that you had a right to choose the use of supplemental oxygen in the PACU had you wanted to choose or specify that?

A. Supplemental oxygen is on the list of orders that I -- is on the lists of orders, correct.

Q. Okay. I don't see it on the list of